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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/930,788	08/15/2001	Andrew David Hood	Hood/Sliwa	2548
55409 7590 04/07/2008 MATHEW J. TEMMERMAN 423 E. STREET DAVIS, CA 95616				
EXAMINER				
FRENEL, VANEL				
ART UNIT		PAPER NUMBER		
3687				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/930,788

Applicant(s)

HOOD ET AL.

Examiner

VANEL FRENEL

Art Unit

3687

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 February 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2, 4-6, 8, 13-16, 19-21, 23-25, 35 and 36 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2, 4, 5-6, 8, 13-16, 19, 20-21, 23-25, and 35-36 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 2/28/08 has been entered.

Notice to Applicant

2. This communication is in response to the RCE filed on 2/28/08. Claims 2, 4, 5-6, 8, 13-16, 19, 20-21, 23-25, and 35-36 are pending.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 2, 4, 5-6, 8, 13-16, 19, 20-21, 23-25, and 35-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brown (6,168,563) in view of Campbell et al (6,047,259), Ballantyne et al (5,867,821) and further in view of Kehr et al. (2003/0036683).

(A) As per claim 2, Brown discloses a system for gathering and managing patient medical data, comprising: a handheld computing device (See Brown, Fig.1, Col.17, lines 3-42), said handheld computing device having loaded in memory a first computer module for gathering patient medical information, wherein said first computer module has a plurality of data entry screens (See Brown, Fig.16, Col.28, lines 39-67); a microprocessor, said microprocessor having loaded in memory a second computer module, said second computer module having means for creating customized data entry screens for use by said first module (See Campbell, Col.4, lines 19-67).

Brown and Campbell do not explicitly disclose that the system having a means for creating a natural language report and a searchable database from said medical information and a searchable database from said medical information.

However, these features are known in the art, as evidenced by Ballantyne. In particular, Ballantyne suggested that the system having a means for creating a natural language report and a searchable database from said medical information and a searchable database from said medical information (See Ballantyne, Col.7, lines 7-67).

It would have been obvious to one of ordinary skill in the art at the time of the invention to have included the feature of Ballantyne within the collective teachings of Brown and Campbell with the motivation of enhancing healthcare quality (See Ballantyne, Col.2, lines 60-63).

As best understood, claim 2 has been amended to recite the limitations of "in which a handheld computing device has a computer-readable medium having stored thereon a plurality of instruction sequences, which when executed by a processor,

cause the process to perform the steps of executing", "a means for receiving medical data through remote transmission", "data point-based", "said natural language report having syntax and structure", "receiving customized information from a template manager", template based ", "and wherein at least one of said data entry screens correlates a set of modifiers to a body part; and wherein said customized information directs the function of said first module.

Brown, Campbell and Ballantyne do not explicitly disclose in which a handheld computing device has a computer-readable medium having stored thereon a plurality of instruction sequences, which when executed by a processor, cause the process to perform the steps of executing", "a means for receiving medical data through remote transmission", "data point-based", "said natural language report having syntax and structure", "receiving customized information from a template manager", template based ", "and wherein at least one of said data entry screens correlates a set of modifiers to a body part; and wherein said customized information directs the function of said first module.

However, these features are known in the art, as evidenced by Kehr. In particular, Kehr suggests in which a handheld computing device has a computer-readable medium having stored thereon a plurality of instruction sequences, which when executed by a processor, cause the process to perform the steps of executing", "a means for receiving medical data through remote transmission (See Kehr, Page 36, Paragraph 0326; Page 43, Paragraph 0389)", "data point-based", "said natural language report having syntax and structure", "receiving customized information from a template

manager", template based ", "and wherein at least one of said data entry screens correlates a set of modifiers to a body part; and wherein said customized information directs the function of said first module (See Kehr, Page 43, Paragraphs 0388-0392).

It would have been obvious to one of ordinary skill in the art at the time of the invention to have included the features of Kehr within the collective teachings of Brown, Campbell and Ballantyne with the motivation of providing a medical information management system and database (See Kehr, Page 1, Paragraph 0006).

(B) As per claim 4, Brown discloses the system wherein said template manager additionally comprises a plurality of templates for creating said customized data entry screens (See Brown, Col.34, lines 20-64).

The motivation for combining the respective teachings of Brown, Campbell, Ballantyne and Kehr are as discussed above in the rejection of claim 2, and incorporated herein.

(C) As per claim 5, Campbell discloses the system wherein said template manager additionally comprises means for editing all aspects of said data entry screens, said syntax and structure of said natural language report and said data-points (See Campbell, Col.16, lines 22-30).

The motivation for combining the respective teachings of Brown, Campbell, Ballantyne and Kehr are as discussed above in the rejection of claim 2, and incorporated herein.

(D) As per claim 6, Campbell discloses the system wherein said first module additionally comprises means to delete at least one of said data entry screens (See Campbell, Col.15, lines 55-67).

The motivation for combining the respective teachings of Brown, Campbell, Ballantyne and Kehr are as discussed above in the rejection of claim 2, and incorporated herein.

(E) As per claim 8, Campbell discloses the system wherein said template manager has means for customizing navigation between said plurality of data entry screens (See Campbell, Col.15, lines 6-64).

The motivation for combining the respective teachings of Brown, Campbell, Ballantyne and Kehr are as discussed above in the rejection of claim 2, and incorporated herein.

(F) As per claim 13, Ballantyne discloses the system additionally comprising a portable printer for printing out said natural language report (See Ballantyne, Fig.3, Col.7, 17-67).

The motivation for combining the respective teachings of Brown, Campbell, Ballantyne and Kehr are as discussed above in the rejection of claim 2, and incorporated herein.

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(G) As per claim 14, Brown discloses the system wherein said template manager has a means for flagging certain data items as relevant for specific purposes (See Brown, Col.12, lines 4-49).

(H) As per claim 15, Kehr discloses the system wherein said searchable database has a plurality of items, and wherein each such item has a unique identifier, and wherein said customized information further comprises said unique identifier (See Kehr, Page 6, Paragraph 0083).

The motivation for combining the respective teachings of Brown, Campbell, Ballantyne and Kehr are as discussed above in the rejection of claim 2, and incorporated herein.

(I) As per claim 16, Brown discloses a software application for gathering and managing patient medical data, comprising:

a first computer module for gathering patient medical information on a handheld computing device (See Brown, Fig.1, Col.17, lines 3-42), said first computer module having a plurality of data entry screens (See Brown, Fig.16; Col.28, lines 39-67).

Brown does not explicitly disclose a second computer module for creating customized medical data entry screens for use by said first module.

However, this feature is known in the art, as evidenced by Campbell. In particular, Campbell suggests that a second computer module for creating customized

medical data entry screens for use by said first module (See Campbell, Col.4, lines 19-67).

It would have been obvious to one of ordinary skill in the art at the time of the invention to have included the feature of Campbell within the system of Brown with the motivation of providing an interactive medical exam component of the system displays physical exam screens that guide the user through a complete medical exam (See Campbell, Col.2, lines 14-21).

As best understood, claim 16 has been amended to recite the limitation of "a means for receiving medical data through remote transmission", "a means for receiving customized information, and a means for creating a natural language report and a data point-based searchable database from said medical information, wherein said natural language report has a syntax and a structure"; "template manager", "customized information for use by said first module, said customized information composing", "template based", "wherein said customized information directs the function of said first module; and wherein at least one said data entry screens allows a user to correlate a set of modifiers with a body part".

Brown, Campbell and Ballantyne do not explicitly disclose "a means for receiving medical data through remote transmission", "a means for receiving customized information, and a means for creating a natural language report and a data point-based searchable database from said medical information, wherein said natural language report has a syntax and a structure"; "template manager", "customized information for use by said first module, said customized information composing", "template based",

"wherein said customized information directs the function of said first module; and wherein at least one said data entry screens allows a user to correlate a set of modifiers with a body part".

However, these features are known in the art, as evidenced by Kehr. In particular, Kehr suggests "a means for receiving medical data through remote transmission", "a means for receiving customized information, and a means for creating a natural language report and a data point-based searchable database from said medical information, wherein said natural language report has a syntax and a structure"; "template manager", "customized information for use by said first module, said customized information composing", "template based", "wherein said customized information directs the function of said first module (See Kehr, Fig. 16; Page 5, Paragraphs 0074-0077); and wherein at least one said data entry screens allows a user to correlate a set of modifiers with a body part" (See Kehr, Page 43, Paragraphs 0388-0392).

It would have been obvious to one of ordinary skill in the art at the time of the invention to have included the features of Kehr within the collective teachings of Brown, Campbell and Ballantyne with the motivation of providing a medical information management system and database (See Kehr, Page 1, Paragraph 0006).....

(J) As per claim 20, Kehr discloses wherein said template manager additionally comprises means for editing all aspects of said data entry screens, "said natural

language report, and said data points in said data point-based searchable database”
(See Kehr, Page 6, Paragraphs 0083-0084).

(K) As per claim 24, Ballantyne discloses wherein said template manager has a means for controlling the syntax and structure of said natural language report (See Ballantyne, Fig.3, Col.7, 17-67).

The motivation for combining the respective teachings of Brown, Campbell, Ballantyne and Kehr are as discussed above in the rejection of claim 2, and incorporated herein.

(L) As per claim 25 Kehr discloses wherein said searchable database has a plurality of items, and wherein each such item has a unique identifier, and wherein said customized information further comprises said unique identifier (See Kehr, Page 6, Paragraph 0083).

(M) As per claim 35, Brown discloses a system for gathering and managing patient medical data, comprising:

a handheld computing device, said handheld computing device (See Brown, Fig.16; Col.28, lines 39-67) having loaded in memory a computer module for gathering patient medical information, said module having a medical data entry screen, said screen allowing a user to input patient medical information (See Campbell, Col.4, lines 19-67).

Brown and Campbell do not explicitly disclose means for creating a natural language report and a searchable database from said medical information.

However, these features are known in the art, as evidenced by Ballantyne. In particular, Ballantyne suggested that the system having a means for creating a natural language report and a searchable database from said medical information and a searchable database from said medical information (See Ballantyne, Col.7, lines 7-67).

It would have been obvious to one of ordinary skill in the art at the time of the invention to have included the feature of Ballantyne within the collective teachings of Brown and Campbell with the motivation of enhancing healthcare quality (See Ballantyne, Col.2, lines 60-63).

As best understood, claim 35 has been amended to recite the limitation of "creating medical data input screens", "first", "a second module having a means for customizing said screen, said natural language report, and said searchable database; and wherein said customization means is template based".

Brown, Campbell and Ballantyne do not explicitly disclose "creating medical data input screens", "first", "a second module having a means for customizing said screen, said natural language report, and said searchable database; and wherein said customization means is template based".

However, these features are known in the art, as evidenced by Kehr. In particular, Kehr suggests "creating medical data input screens", "first", "a second module having a means for customizing said screen, said natural language report, and said searchable database (See Kehr, Page 6, Paragraphs 0083-0084); and wherein

said customization means is template based" (See Kehr, Page 43, Paragraphs 0388-0392).

It would have been obvious to one of ordinary skill in the art at the time of the invention to have included the features of Kehr within the collective teachings of Brown, Campbell and Ballantyne with the motivation of providing a medical information management system and database (See Kehr, Page 1, Paragraph 0006).

(N) As per claim 36, Brown discloses a system for gathering and managing patient medical data, comprising:

a handheld computing device, said handheld computing device having a means of gathering specified regulatory data and having loaded in memory a computer module for gathering patient medical information, said module having a medical data entry screen, said screen allowing a user to input patient medical information (See Brown, Fig.16; Col.28, lines 39-67).

Brown does not explicitly disclose a matrix within said data entry screen, said matrix allowing a user to correlate a body part with a set of modifiers.

However, this feature is known in the art, as evidenced by Campbell. In particular, Campbell suggests a matrix within said data entry screen, said matrix allowing a user to correlate a body part with a set of modifiers (See Campbell, Figs.6-7; Col.12, lines 14-67).

It would have been obvious to one of ordinary skill in the art at the time of the invention to have included the feature of Campbell within the system of Brown with the motivation of providing an interactive medical exam component of the system displays

physical exam screens that guide the user through a complete medical exam (See Campbell, Col.2, lines 14-21).

As best understood, claim 36 has been amended to recite the limitation of “a second module having a means for customizing said data entry screen and said matrix; and wherein said customization means is template based”.

Brown, Campbell and Ballantyne do not explicitly disclose “a second module having a means for customizing said data entry screen and said matrix; and wherein said customization means is template based”.

However, this feature is known in the art, as evidenced by Kehr. In particular, Kehr suggests “a second module having a means for customizing said data entry screen and said matrix; and wherein said customization means is template based” (See Kehr, Page 4, Paragraphs 0068-0069; Page 43, Paragraphs 0383-0384).

It would have been obvious to one of ordinary skill in the art at the time of the invention to have included the features of Kehr within the collective teachings of Brown, Campbell and Ballantyne with the motivation of providing a medical information management system and database (See Kehr, Page 1, Paragraph 0006).

(O) Claims 19, 21, 23, 25 recite the underlying process of the elements of claims 4-6 and 15, and respectively. As the various elements of claims 4-6 and 15 have been shown to be either disclosed by or obvious in view of the collective teachings of Brown, Campbell, Ballantyne and Kehr, it is readily apparent that the apparatus disclosed by the applied prior art performs the recited underlying functions. As such, the limitations

recited in claims 19, 21, 23, 25 are rejected for the same reasons given above for system claims 4-6 and 15, and incorporated herein.

Response to Arguments

5. Applicant's arguments filed 2/28/08 with respect to claims 2, 4, 5-6, 8, 13-16, 19, 20-21, 23-25, and 35-36 have been fully considered but they are not persuasive.

(A) At pages 2-4 of the 2/28/08 response, Applicant's argues the followings: "Brown Campbell , Ballantyne and Kehr do not disclose a unique software process of building customized whole new templates with complex interactions such as natural language, data collection, charge capture, etc. that are specific for medical applications to build reports and collect data simultaneously.

(B) With respect to Applicant's arguments the Examiner respectfully submitted that Kehr does disclose these limitations at (Page 37, Paragraphs 0329-0330).

In response, all of the limitations which Applicant disputes as missing in the applied references, including the features newly added in the 4/13/07 amendment, have been fully addressed by the Examiner as either being fully disclosed or obvious in view the teachings of Brown, Campbell, Ballantyne and Kehr based on the logic and sound scientific reasoning of one ordinarily skilled in the art at the time of the invention, as detailed in the remarks and explanations given in the preceding sections of the present Office Action and in the prior Office Action, and incorporated herein. One cannot show nonobviousness by attacking references individually where the rejections are based on

combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

In addition, the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981).

Conclusion

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to VANEL FRENEL whose telephone number is (571)272-6769. The examiner can normally be reached on 6:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Matthew S. Gart can be reached on 571-272-3955. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Vanel Frenel/
Examiner, Art Unit 3687

March 29, 2008

